

ATTORNEY DOCKET NO. 14114.0341U1

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICEIn re Application of  
Ades *et al.*Serial No. 09/613,092  
Confirmation No. 9419

Filed: July 10, 2000

For: MULTIPLE ANTIGENIC PEPTIDES  
IMMUNOGENIC AGAINST  
STREPTOCOCCUS PNEUMONIA

Group Art Unit: 1645

Examiner: Devi, S.

FAX RECEIVED

JUL 24 2002

GROUP 1600

ELECTION UNDER RESTRICTION REQUIREMENT

OFFICIAL

Commissioner of Patents  
Washington, D.C. 20231  
ATTN: Examiner S. Devi  
Group Art Unit 1645  
Facsimile No. (703) 308-4315NEEDLE & ROSENBERG, P.C  
The Candler Building  
127 Peachtree Street, N.E.  
Atlanta, Georgia 30303-1811

July 23, 2002

Sir:

This is in response to the Office Action dated July 3, 2002, wherein restriction of the claims of the above-referenced application is required. The Office Action requires restriction to one of sixteen groups of claims.

Applicants provisionally elect Group 9 (claim 11, drawn to a multiple antigenic peptide comprising SEQ ID NO: 5, 6, and 7, classified in class 424, subclass 190.1), with traverse, and request that claim 1 be joined with Group 9.

Applicants also request that Group 15 (claim 19, drawn to a method of conferring protective immunity by administering a composition comprising SEQ ID NO: 5, 6, and 7, classified in class 424, subclass 244.1) be rejoined with Group 9.

ATTORNEY DOCKET NO. 14114.0341U1  
SERIAL NO. 09/613,092

Applicants further request that the restriction requirement be reconsidered, because the Examiner has not shown that a serious burden would be required to examine all the claims.

M.P.E.P. § 803 provides:

If the search and examination of an entire application can be made without serious burden, the Examiner must examine it on the merits, even though it includes claims to distinct or independent inventions. (*Emphasis added.*)

Thus, for a restriction requirement to be proper, the Examiner must satisfy the following two criteria: (1) the existence of independent and distinct inventions (35 U.S.C. § 121); and (2) the search and examination of the entire application cannot be made without serious burden. *See* M.P.E.P. § 803.

In particular, the Examiner has not shown that the second requirement has been met. Specifically, the Examiner has not shown that it would be a serious burden to search and examine the groups together. Because little or no additional burden would be required to search and examine the groups together, applicants respectfully submit that the groups should be searched and examined together. For these reasons, reconsideration and withdrawal of the restriction requirement is requested.

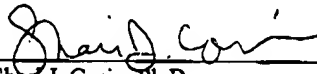
For the reasons stated above, applicants respectfully assert that restriction of the claims as set forth by the Examiner would be contrary to promoting efficiency, economy and expediency in the U.S. Patent and Trademark Office (PTO) and further point out that restriction by the Examiner is discretionary (M.P.E.P. § 803.01). Thus, applicants respectfully request that all of the claims of this application be examined together. Consequently, reconsideration and

**ATTORNEY DOCKET NO. 14114.0341U1**  
**SERIAL NO. 09/613,092**

modification or withdrawal of the restriction requirement is requested.

It is believed that this paper is being timely filed and that no fee is required for the filing thereof. However, the Commissioner is hereby authorized to charge any fee that may be required or to credit any overpayment to Deposit Account No. 14-0629.


Respectfully submitted,

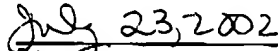
  
Shari J. Corin, Ph.D.  
Registration No. 46,243

The Candler Building  
127 Peachtree Street, N.E.  
Atlanta, Georgia 30303-1811  
(404) 688-0770

**CERTIFICATE OF FACSIMILE TRANSMISSION**

I hereby certify that this correspondence is being transmitted via facsimile No. (703) 308-4315 to: Commissioner of Patents, Washington, D.C. 20231, ATTN: Examiner S. Devi, Group Art Unit 1645, on the date shown below.

  
Shari J. Corin, Ph.D.

  
Date

**NEEDLE & ROSENBERG, P.C.**

Suite 1200  
The Candler Building  
127 Peachtree Street, N.E.  
Atlanta, Georgia 30303-1811

Phone: (404) 688-0770  
Facsimile (404) 688-9880

**FACSIMILE TRANSMITTAL SHEET**

<b>TO:</b> Commissioner of Patents Washington, D.C. 20231	<b>FROM:</b> Shari J. Corin, Ph.D. 404-658-5249
<b>FACSIMILE NUMBER:</b> 703-308-4315	<b>DATE:</b> July 23, 2002
<b>PHONE NUMBER:</b>	<b>TOTAL NO. OF PAGES INCLUDING COVER:</b> 4
	<b>OUR REFERENCE NUMBER:</b> 14114.0341U1

FAX RECEIVED  
JUL 24 2002  
GROUP 1600

**RE:****RESTRICTION ELECTION FACSIMILE TRANSMISSION****OFFICIAL**

In re Application of

Ades *et al.*

Examiner: S. Devi

Application No. 09/613,092

Group Art Unit: 1645

Filed: July 10, 2000

Attorney Docket No. 14114.0341U1

**NOTES/COMMENTS:**

The following documents are transmitted herewith in connection with the filing of an Election Under Restriction Requirement in the above-referenced matter:

- 1) Election Under Restriction Requirement - 3 pgs.
- 2) Certificate of Facsimile Transmission dated July 23, 2002

**IMPORTANT NOTICE**

This message is intended only for the use of the individual or entity to which it is addressed and may contain information that is privileged, confidential, and/or exempt from disclosure by applicable law or court order. If the reader of this message is not the intended recipient, or the employee or agent responsible for delivering the message to the intended recipient, you are hereby notified that any dissemination, distribution, or copying of this communication is strictly prohibited. If you have received this communication in error, please notify us immediately by telephone and return the original message to us at the address above via the United States Postal Service. Thank you.

If you have problems receiving this transmission please call (404) 688-0770